

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Klein)	Examiner:	Brown, Vernal U.
)		
Serial No.:	10/694,582)	Art Unit:	2612
)		
Filed:	October 27, 2003)	Attorney Doc.:	81230.98US1
)		
Title:	Controlling Device Having)		
	Device Mode State)		
	Toggle Feature)		

REPLY BRIEF

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Appellant hereby submits this Reply to the Examiner's Answer dated June 8, 2009.

The Commissioner is hereby authorized to charge any fee deficiency or credit
overpayment to deposit account number 50-2428 in the name of Greenberg Traurig.

REMARKS

In accordance with 37 CFR §§ 41.41(a)(1) and 41.43(b), Appellant hereby submits this Reply Brief in response to the Examiner's Answer.

It is respectfully submitted that the Examiner's Answer continues to evidence that the Examiner is not considering the claims as a whole as is required when evaluating a claim under 35 U.S.C. § 102. By way of example, it is respectfully submitted that the Examiner's assertion that "a remote control having dedicated device mode keys reads on the elements as claimed" (*see* Examiner's Answer, page 12) evidences that the examiner is not considering all of the words set forth within claims 1 and 25, in particular, all of the words set forth within the claimed programming that is responsive to a receipt of an input (e.g., actuation of a device mode toggle key 111) for selecting, as a function of at least one of *a one of the plurality of device mode states* (i.e., a state in which the controlling device is configured to commands operations of a device such as TV, VCR, Aux, etc.) the controlling device is in at a time the input is received and *a one of the plurality of device mode states* (i.e., a state in which the controlling device is configured to commands operations of a device such as TV, VCR, Aux, etc.) the controlling device was placed into a last time the input was received, a device mode state to thereby be used as the configuration for the controlling device.

As particularly concerns the rejection of claims 1 and 25, it is again respectfully submitted that the dedicated device mode keys of Van Ryzin and Lin are used to do nothing more than directly select one of a plurality of device mode states into which the controlling device is to be configured. Specifically, in both Van Ryzin and Lin the controlling device is configured into a device mode state, i.e., a state in which the controlling device is configured to commands operations of a device such as TV, VCR, Aux, etc., solely as a function of the one of

the plurality of device modes state selectors ultimately actuated by the user. (see Van Ryzin at Col. 5, lines 20+ and Lin at Col. 4, lines 42-49). Thus, if the TV device mode key of the Van Ryzin or Lin controlling device is actuated, the Van Ryzin or Lin controlling device will **always** be configured into the TV device mode state which configuration will always take place **without regard to** any device mode state the controlling device is configured in when the TV device mode key is actuated or any device mode state the controlling device was configured in a last time the TV device mode key was actuated. Accordingly, because the controlling devices of both Van Ryzin and Lin are **never** caused to be configured into a device mode state (i.e., a state in which the controlling device is configured to commands operations of a device such as TV, VCR, Aux, etc.) as a function of any current or previous device mode state of the controlling device it is respectfully submitted that both Van Ryzin and Lin fail to disclose, teach, or suggest all of the elements recited in claims 1 and 25 as is required to maintain a rejection under 35 U.S.C. § 102. For at least this reason it is respectfully submitted that the rejection of claims 1 and 25 must be withdrawn.

As further concerns the rejection of claims 1 and 25, while the Examiner has again asserted that the remote controls of Van Ryzin and Lin allow a function of a device to be controlled when the controlling device is placed into a device mode state corresponding to that device, for example selecting a channel or changing volume of a TV, and, as such, evidences that Van Ryzin/Lin anticipates the invention claimed (see Examiner's Answer, page 12) it is again respectfully submitted that this disclosure simply does not equate to nor has any relevance to the claimed programming within a controlling device responsive to a receipt of an input (e.g., actuation of a device mode toggle key 111) for selecting one of a subset of a plurality of device mode states (i.e., a state in which the controlling device is configured to commands operations of

a device such as TV, VCR, Aux, etc.) *to be used as the configuration* for the controlling device as a function of at least one of a one of the plurality of device mode states (i.e., a state in which the controlling device is configured to commands operations of a device such as TV, VCR, Aux, etc.) the controlling device is in at a time the input is received and a one of the plurality of device mode states (i.e., a state in which the controlling device is configured to commands operations of a device such as TV, VCR, Aux, etc.) the controlling device was placed into a last time the input was received. Rather, this disclosure from Van Ryzin and Lin evidences nothing more than the fact that, when the controlling device of Van Ryzin or Lin is directly placed into a device mode state by a user through actuation of a dedicated device mode key, such as the device mode state to control a TV, the controlling device of Van Ryzin will operate as intended to command functions, such as the channel or volume functions of a TV, of the device that corresponds to the dedicated device mode key that was actuated by the user. Accordingly, it is respectfully submitted that the disclosure within Van Ryzin or Lin that merely describes that functions of device will be controlled when the controlling device is placed into a device mode state cannot be said to anticipate or render obvious the invention recited in claims 1 and 25. For this still further reason it is respectfully submitted that the rejection of claim 1 and 25 under 35 U.S.C. § 102 must be withdrawn.

In response to the Examiner's continued assertion that Lin teaches a macro key for executing a series of functions which thereby anticipates the elements of claim 46 (*see* Examiner's Answer, page 12), it is again respectfully submitted that this disclosure within Lin does not equate to nor has any relevance to the claimed controlling device method that responds to a receipt of an input used to change a remote control from a first device mode state to a second device mode state by placing the remote control into the second device mode state and *storing*

data indicative of the first device mode state, i.e., the device mode state just left, whereby a subsequent activation of a device mode state toggle key allows for the return of the remote control to that saved, first device mode state. Rather, when actuated, the macro key of Lin will do nothing more than cause the remote control to execute a series of functions (i.e., transmit commands) that have been previously programmed into the remote control, i.e., programmed into the remote control prior to the macro key ever being activated for this purpose. (see Lin at Col. 4, lines 60-62 and Col. 2, lines 10-22). Because activation of a macro key of the Lin controlling device will never cause a device mode state of the remote control to be stored, let alone to thereby allows for the return of the remote control to that saved, device mode state when the macro key is again actuated, it is again respectfully submitted that Lin simply cannot be said to disclose, teach, or suggest the exact invention recited in claim 46 as is required to maintain a rejection under 35 U.S.C. § 102. For at least this reason it is respectfully submitted that the rejection of claim 46 under 35 U.S.C. § 102 must be withdrawn.

At this time, Appellant would also like to note that the Examiner has not addressed the remarks set forth within the Appeal Brief as concerns the failure of Lin to disclose, teach, or suggest the controlling device that stores in memory a circular list of device mode states whereby activation of a single device mode state toggle key is used to place the controlling device into a device mode state as indicated by a current position within the circular list of device mode states as is set forth within claim 50. Nevertheless, it is again respectfully submitted that Lin simply fails to disclose, teach, or suggest the exact invention recited in claim 50. For at least this reason it is respectfully submitted that the rejection of claim 50 under 35 U.S.C. § 102 must be withdrawn.

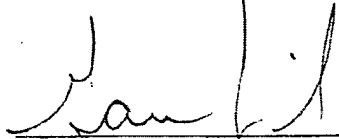
Conclusion

For each of the reasons set forth above, it is again respectfully submitted that the application is in good and proper form for allowance. Such action on the part of the Board is respectfully requested.

Respectfully Submitted;

Date: June 19, 2009

By:

A handwritten signature in black ink, appearing to read "Gary R. Jarosik", written over a horizontal line.

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